HONOURABLE SRI JUSTICE

B. SESHASAYANA REDDY

WRIT PETITION NO.9835 OF 2003

Dated 25-07-2005

Between:

The R.R. District Pullers and Daily Waged Workers Welfare Association (Regd.) rep. By its Organizing Secretary Smt. Chandrakala,wife of Late Bojia, Labour, residentof Indira Nagar Huts, Chaitanyapuri,Kothapet village, Uppal Mandal, R.R.District.

Petitioner.

And:

1) The Secretary to Government of A.P., Department of Revenue, Secretariat Buildings, Hyderabad and others.

Respondents.

ORDER :

The writ petition has been filed by the Ranga Redy District Pullers and Daily Waged Workers Welfare Association (Regd.) represented by its Organising Secretary Smt. Chandrakala with a prayer to issue an appropriate Writ, Order or Direction, more particularly one in the nature of Writ of Mandamus, declaring the action of the respondent No.2 in issuing the impugned proceeding bearing No.E4/4254/2001 dated 28-9-2002 dropping the proposals of assignment in Sy.No.181/1 of Kothapet village, Uppala Mandal, R.R. District as being malafide, discriminatory, arbitrary, atrocious and violative of direct principles of State Policy as enshrined in Articles 14,15,16,17,21 and 46 of the Constitution of India.

Smt. Chandrakala has given her sworn affidavit in support of the writ petition. The case of the petitioner's association as set out in the affidavit filed in support of the writ petition be summarized as follows:-

The writ petitioner's association compromises 40 persons and they are all daily wage workers. They have been residing in Government land bearing Survey No.181/1 of Kothapet village, Uppal Mandal, R.R.District for the last 25 years. The real estate businessmen made their attempt to evict the members of the petitioner-association. The petitioner-association approached the District Collector, R.R.District-2nd respondent and requested him to provide protection to its members who have been residing in Survey No.181/1, from the land grabbers. The Special Deputy Collector and Revenue Divisional Officer, East Division, R.R.District-3rd respondent, pursuant to the instructions of the District Collector, addressed a letter to the Mandal Revenue Officer-4th respondent to take action for regularization of encroachments of the members of the petitioner's association. The petitioner's association filed writ petition No.13620 of 2000 and the said writ petition came to be disposed of on 16-10-2000. Thereafter, the Mandal Revenue Officer Uppal Mandal, R.R.District-4th respondent was instructed to conduct a socio-economy survey to identify persons entitled for assignment of house site pattas. Accordingly, a list of 120 persons was prepared and forwarded to the District Collector, Ranga Reddy District-2nd respondent through the office of the 3rd respondent. The Hyderabad Urban Development Authority was requested to sanction the layout plan prepared by the office of the 2nd respondent. The Hyderabad Urban Development Authority in turn transmitted the application to the Commissioner, L.B.Nagar Municipality. The L.B.Nagar Municipality has approved the layout plan keeping the instructions contained in the 2nd respondent's letter No.E4/4254/01,m dated 29-6-2002 wherein the 3rd respondent and 4th respondents were duly instructed to restrict the beneficiaries list for 59 only though proposals were sent for 120 beneficiaries. The Mandal Revenue Officer-4th respondent after thorough verification sent the list of 59 persons who raised structures and requested the District Collector, R.R. District to accord permission to prepare the patta certificates. The Special Duty Collector and Revenue Divisional Officer,, East Division, R.R.District-3rd respondent sent proposals to the 2nd respondent stating that the land is located in a prime residential area and the same could not be alienated to 3rd parties. Basing on the said proposals, the District Collector, R.R.District-2nd respondent has dropped the proposals and instructed the Revenue Divisional Officer, RR District to identify another land for allotment of house sites to the members of the petitioner-

association. Hence the writ petition questioning the action of the District Collector, R.R. District in dropping proposals for allotment of house sites to the members of the petitioner-association in S.No.181/1 of Kothapeta village.

The respondents 1 to 4 filed counter-affidavit. One G. Indra Reddy has given his sworn affidavit. It is stated in the counter- affidavit that the Mandal Revenue Officer Uppal has inspected the land bearing Sl.No.181/1 of Kothapet village along with the Administrative Officer of R.D.O's Office and Mandal Surveyor, East Division on 31-8-2002 and the Mandal Surveyor has found that out of 59 beneficiaries, only 32 persons are staying in the schedule land by encroaching the land by way of temporary huts. It is further stated in the counter-affidavit that the schedule land in Survey No.181 of Kothapet village is situated in the prime area and adjacent to high way leading from Dilsukhnagar to L.B.Nagar and it is highly potential and its costs is more than Rs.10,000/- per sq. yards.

I deem it appropriate to refer para 3 of the Counter-affidavit and it is thus:

> Para 3:
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> "In reply to para 5, it is submitted that the District Collector, Ranga Reddy District vide his Office letter No.E4/4254/89, dated 29-6-2002 requested this office to submit (S.E.S.) Socio Economic Survey, particulars of the beneficiaries of 59 persons only as the layout has been approved for 59 plots only in Sy.No.181 of Kothapet village. In this connection, the Mandal Revenue Officer, Uppal has inspected the land in Sy.No.181/1 of Kothapet village along with Administrative Officer of Revenue Divisional Officer's Office and Mandal Surveyor, Ranga Reddy East Division on 31-8-2002 and the Mandal Surveyor had found that out of 59 beneficiaries, only 32 persons are staying in the schedule land by encroaching the land by way of temporary huts. Further it is observed that the schedule land in Sy.No.181/1 of Kothapet village is situated in the prime area of Kothapet village and adjacent to high way leading from Dilsukhnagar to L.B.Nagar and it is highly potential and its costs is more than Rs.10,000/- per sq. yards. Further it is observed that the land is highly potential and costly and found to be suitable for utilizing the same by the Government effectively for taking up the shopping complex or for any other public purposes, instead of granting house site pattas to the Weaker Section, who are not permanent residents of Kothapet village. All these encroachers are migrants and their settlement is temporary and if the land is allotted to such persons, they may sell the pattas to the third parties. Therefore, proposals have been submitted by the Mandal Revenue Officer, Uppal to the Collector, Rangareddy District vide

Mandal Revenue Officer, Uppal Lr. No.B/21396/98, dated 31-8-2002 to consider grant of house sites to these persons else where other than the land covered by Sy.No.181/1 of Kothapet village, as the beneficiaries belongs to Scheduled Caste and Backward Class Communities and are found eligible for grant of house site pattas. Accordingly, the Revenue Divisional Officer, has recommended the proposals of the Mandal Revenue Officer to the District Collector. Taking the proposals of the Revenue Divisional Officer, and Mandal Revenue Officer into consideration the District Collector, Rangareddy District vide his office LKr.No. E4/4254/2001 dated 28-9-2002 dropped the proposals for allotment of house sites to the members of petitioner's association in Survey No.181/1 of Kothapet village and issued instructions to identify the suitable Government land elsewhere and to submit proposals immediately. But it is not correct to say that there are instructions received from the Office of the Minister for not assigning the said land to the members of petitioner's Association under any circumstances as alleged. The allegation is baseless and the petitioner may be put to strict proof of all other averments made therein."

Heard Sri B. Tarakam, the learned senior counsel appearing on behalf of the petitioner-association and the learned Government pleader appearing on behalf of the respondents 1 to 4.

The learned Senior Counsel appearing on behalf of the petitioners submits that the members of the petitioner-association have been in occupation of smaller extents for the last more than 15 years and therefore, the action of the respondents 1 to 3 in not grant house sites pattas is opposed to the directive principles of the State Policy. He further submits that the report sent by the Mandal Revenue Officer-4th respondent speaks of the possession of the members of the petitioner-association in respect of the land bearing No.181/1 of Kothapet village, and therefore, there cannot be any impediment for the respondents in assigning the said lands to the members of the petitioner-association.

The learned Government Pleader appearing on behalf of the respondents submits that out of 59 beneficiaries, only 32 are staying in the land in question by putting up temporary huts and since the land in question is required for public purpose, the District Collector returned the proposal for assignment of house site pattas to the petitioner-association and further instructed the Mandal Revenue Officer to identify the suitable Government land elsewhere and to submit the proposals immediately,

and therefore, the action of the District Collector cannot be found valid.

Virtually, this is a second round of litigation. The petitioner's association filed W.P.No.13620k/2000 with a prayer to issue a writ order or direction more particularly declaring the action of the Mandal Revenue Officer in causing the hardship to the members of the association as violative of Articles 14,15,16 and 21 of the Constitution of India. The said writ petition came to be disposed off on 16-10-2000. The order passed under writ petition reads as follows:

> "The learned counsel for the petitioner submits that in view of the proceedings of the Collector, R.R. District letter in LR>No.492/5/2000 dated 10-8-2000, no further orders are necessary in this writ petition."

The present writ petition has been filed by the petitioner's Association questioning the action of the District Collector in dropping the proposals for assignment House pattas in Survey No.181/1 Kothapet village Uppal, R.R.District to the members of the petitioner-association. It is stated in the counter-affidavit that the land in Survey No.181/1 is a prime land and suitable for other Governmental purposes. The obligation on the part of the State is to provide shelter to the weaker sections. But at the same time, the beneficiaries cannot insist for allotment of a particular piece of the land. It is for the Government keeping in view of the various commitments to consider viability of the allotment of house sites to the eligible persons. It has come on record that some of the members of the petitioner's association have been in occupation of the land in Survey No.181/1 since a quite longer period. In such a case, the members of the petitioner-association cannot be thrown out without providing suitable alternative house sites.

In the circumstances, I deem it appropriate to direct the respondents not to dispossess the members of the petitioner's association who have been continuing in occupation of the land as on this day till suitable alternative house sites are provided to them.

Accordingly, the writ petition is disposed of. No costs.

Justice B. SESHASAYANA REDDY

Date : 25th July, 2005

Dvs

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